THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

Writ Petition No.3484 of 2007

Date:06.06.2007

Between

M/s. Universal Stone Actract.

----------Petitioner

And

Forest Range Officer and another.

----------Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

Writ Petition No.3484 of 2007

ORDER:

The petitioner is a partnership firm. It submitted an application to the Department of Mines and Geology, for grant of mining lease to quarry Black Granite over three hectares of land in Survey No.1246 (part) of Kundurru Village, Santhamaguluru Mandal, Prakasam District. Through their proceedings, dated 15.11.2006, the Director of Mines and Geology granted lease over the said area, after obtaining no objection from the Revenue Department. A lease deed was executed in favour of the petitioner on 01.02.2007. When the petitioner was about to commence the mining operations, the Forest Range Officer, Ongole, first respondent herein, objected to it and issued a memo, dated 08.02.2007, stating *inter alia* that the land, in which the petitioner proposes to carry on the

mining operations, is part of reserve forest in Compartment No.372 of Boggulakonda Village and directed the petitioner not to undertake any such activities. The petitioner challenges the said memo.

It is contended that before the lease was granted in favour of the petitioner, thorough examination was undertaken and the Mandal Revenue Officer, Santhamaguluru had certified that the land in Survey No.1246 is a revenue land. The petitioner also contends that way back in the year 1995, the then Divisional Forest Officer, Markapur clarified that the Forest Department has no objection for grant of mining lease over the land in Survey No.1246.

Respondents 1 and 2 filed separate counter affidavits. The origin of the reserve forest in that area is traced. The first respondent stated that the area was inspected with the participation of the Mandal Surveyor on 08.02.2007 and it was found that it is within the reserve forest. The Divisional Forest Officer, Giddalur, second respondent herein stated that in view of the impending dispute as to the nature of land, at the request of the first respondent, the Joint Collector, Ongole arranged for a joint inspection by the officials of the Forest and Revenue Departments and accordingly, on 18.03.2007, a joint

inspection was conducted with the participation of the Forest Settlement Officer, Divisional Forest Officer, Forest Range Officer, Mandal Revenue Officer, Mandal Revenue Inspector, Mandal Surveyor, Village Revenue Officer etc. A copy of the notes of joint inspection is filed, which is to effect that the land is part of reserve forest.

Sri C.Ramachandra Raju, the learned counsel for the petitioner submits that as long back as in the year 1995, the Forest Department itself clarified that it has no claims over the land in Survey No.1246 and there is absolutely no basis for the present set of proceedings. He further contends that the so-called joint inspection report, dated 18.03.2007 has no legal sanctity and it cannot be pressed into service, to defeat the rights of the petitioner.

Learned Government Pleader for Forests, on the other hand, submits that the inspections conducted on 08.02.2007 as well as on 18.03.2007 clearly disclose that the land, in question, is within the reserve forest block. He contends that if the petitioner still disputes the findings recorded in the joint inspection, it has to avail the remedy by filing a suit or have a recourse to the remedies provided under the A.P.Survey and Boundaries Act.

The petitioner was granted the mining lease over

three hectares of land in Survey No.1246. The Mandal Revenue Officer, Santhamaguluru certified that it is part of revenue land, indirectly suggesting that it does not constitute any reserve forest block. The fact remains that the views of the Forest Department were not obtained before the lease was granted, obviously because it was not mandatory.

When the petitioner was about to commence the mining operations, the first respondent objected to the same. He availed the assistance of the Mandal Surveyor and on the basis of the inspection conducted on 08.02.2007, he was satisfied that the land, in question, was part of reserve forest. He communicated the same through the impugned memo.

There is serious dispute as to the location and nature of the land. Whatever may have been the nature of the dispute, by the time, the writ petition was filed, one important development has taken place subsequent thereto. On a request made by the first respondent, the Joint Collector, Ongole had arranged for a joint inspection/survey with the participation of the Forest Settlement Officer, Divisional Forest Officer, Forest Range Officer, Mandal Revenue Officer, Mandal Revenue Inspector, Mandal Surveyor, Village Revenue Officer etc.

The same took place on 18.03.2007. A memo was prepared, indicating the result of inspection and it was signed by all the Officers, who participated in it. A sketch was also drawn. The finding in the memo reads as under:

> *"------ as per the state of affairs on the ground the Bit Land granted for mining lease is within the Reserve Forest Area of Kukatlapalli Block I (Boggulakonda), adjacent to the western boundary of Survey Numbers.1100 and 1099 of Kundurru Village."*

In the teeth of this finding, the petitioner cannot be permitted to carry on the mining operations. If it intends to dispute the joint inspection notes, dated 18.03.2007, it has to avail the remedy under the A.P.Survey and Boundaries Act or file a suit. This Court cannot grant any relief to the petitioner, at present.

Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

_____

06.06.2007

JSU